

CLERK  
 U.S. BANKRUPTCY COURT  
 EASTERN DISTRICT OF  
 NEW YORK EASTERN DISTRICT OF NEW YORK

2018 MAY 18 P 2:45 CIVIL COVER SHEET

This form is REQUIRED for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

**RECEIVED** IN RE: Bankruptcy Case No. 11-42921-cec Adv. Pro. No. (if applicable) \_\_\_\_\_.

Bankruptcy Appeal

APPELLANTS

Libi Herz, Esther Herz

APPELLEES

Moshie Solomon, Esq.  
Richard E. O'Connell

ATTORNEYS (FIRM NAME, ADDRESS, TEL. NO.)

ATTORNEYS (IF KNOWN)

BASIS OF JURISDICTION: Federal Question

CAUSE OF ACTION - 28:1334 Bankruptcy Appeal (Write brief statement of cause.) Judge Carla E. Craig awarded compensation of \$142,810.18 to a trustee & his attorney's even after she had ruled all claims were expunged and had no merit.

This is from an inheritance I still have not received. And an additional \$16,084.02, but they already received \$58,000+. For over 4 years this has dragged on and in the NATURE OF SUIT: 422 Bankruptcy Appeal (801) court script she noted that she will keep close eye on the accounting but yet she did not and let us get taken advantage of, like she promised would not happen.

RELATED CASE(S) IN DISTRICT COURT, IF ANY

DISTRICT JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

CIVIL CASES ARE DEEMED RELATED IF PENDING CASE INVOLVED:

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT
- 2. SAME ISSUE OF FACT OR GROWS OUT OF THE SAME TRANSACTION
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT COPYRIGHT OR TRADEMARK

Date: 5/18/18

Signature of Attorney of Record:  
 [or Appellant Pro Se]

*Libi Herz*

*E. HERZ*

FOR COURT USE ONLY

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_

**CIVIL COVER SHEET, Bankruptcy Appeal (cont'd)**

Did the cause of action arise in Nassau or Suffolk County? \_\_\_\_\_

If YES, please indicate which county: \_\_\_\_\_

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I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

YES

NO

Are you currently the subject of any disciplinary action(s) in this or any other state or federal court?

YES  (If yes, please explain)

NO

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Please provide your bar code and e-mail address below. Your bar code consists of the initials of your first and last name and the last four digits of your social security number, or any other four-digit number registered by the attorney with the Clerk of Court. This information must be provided pursuant to local rule 11.1(b) of the local civil rules.

Attorney Bar Code: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Official Form 417A (12/15)

*[Caption as in Form 416A, 416B, or 416D, as appropriate]***NOTICE OF APPEAL AND STATEMENT OF ELECTION****Part 1: Identify the appellant(s)**

1. Name(s) of appellant(s): Libi Herz & Esther Herz  
Administrator of the Estate of David Herz & spouse

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.	For appeals in a bankruptcy case and not in an adversary proceeding.
<input type="checkbox"/> Plaintiff	<input type="checkbox"/> Debtor
<input type="checkbox"/> Defendant	<input type="checkbox"/> Creditor
<input type="checkbox"/> Other (describe) _____	<input type="checkbox"/> Trustee
<input checked="" type="checkbox"/> Other (describe) <u>Spouse &amp; daughter of David Herz</u>	

**Part 2: Identify the subject of this appeal**

1. Describe the judgment, order, or decree appealed from: Settling & Awarding Compensation to the trustee

2. State the date on which the judgment, order, or decree was entered: May 4, 2018 & Attorneys

**Part 3: Identify the other parties to the appeal**

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. Party: Counsel for Richard E. O'Connell, Chapter 7 Trustee Attorney: Moshie Solomon  
Law Offices of Moshie Solomon, P.C.  
5 Penn Plaza, 23<sup>rd</sup> Floor  
New York, N.Y.  
(212) 594-7070

2. Party: Chapter 7 Trustee Attorney: Richard O'Connell  
Post & O'Connell  
Post Office Box 405  
White Stone, N.Y. 11357  
(917) 641-7530

**Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)**

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

**Part 5: Sign below**

*Libi Herz, E. Herz*

Date: 5/18/18

Signature of attorney for appellant(s) (or appellant(s) if not represented by an attorney)

Name, address, and telephone number of attorney (or appellant(s) if not represented by an attorney):

Libi & Esther Herz  
114-8 E. 10 St.  
Brooklyn N.Y. 11230  
(917) 251-2848

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X

In Re

DAVID HERZ,

Case No. 11-42921 (CEC)

Debtor.

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**ORDER SETTLING AND ALLOWING TRUSTEE'S FINAL REPORT AND  
ACCOUNT AND AWARDING FINAL COMPENSATION TO THE TRUSTEE AND  
THE ATTORNEYS FOR THE TRUSTEE**

WHEREAS, on March 28, 2018, Richard E. O'Connell (the "Trustee"), trustee in bankruptcy, submitted to the United States Trustee his Trustee's Final Report and Account (the "Final Account"), including his application for final award of trustee's commissions of \$6,084.02 (the "Commission Application"); and also submitted the Application of Law Offices of Moshie Solomon, P.C., Attorney for the Trustee, for final allowance of attorney's fees and expenses (the "Attorney's Fee Application"), in the respective amount of \$42,560 and \$250.18; and

WHEREAS, on April 3, 2018, the United States Trustee filed a Statement of No Objection to the Final Account, including the Commission Application, and to the Attorney's Fee Application; and

WHEREAS, the Final Account and the Attorney's Fee Application were filed on the Docket of this Court on April 3, 2018, and April 5, 2018, respectively; and

WHEREAS, Notice of the Filing of the Final Account, including the Commission Application, and of the Attorney's

Fee Application, and of the Hearing scheduled thereon for May 2, 2018, was filed on April 7, 2018; and such Notice of Filing and of Hearing was served by first class mail upon all parties in interest, as appears from the Certificate of Service filed by Joseph Speetjens, dated April 11, 2018; and

WHEREAS, on April 24, 2018, Michael L. Walker, attorney for Libi Herz, as administratrix for the Decedent's Estate of Debtor David Herz, filed an Affirmation in Opposition to the Attorney's Fee Application (the "Walker Affirmation"); and Libi Herz, as administratrix , filed an Affidavit in Opposition to such Application (the "Herz Affidavit"); and

WHEREAS, on April 30, 2018, Law Offices of Moshie Solomon, P.C., Attorney for the Trustee, filed a Reply to the Walker Affirmation and to the Herz Affidavit;

WHEREAS, this Court finds, on the basis of all of the foregoing facts and circumstances, and having heard argument in respect to the Attorney's Fee Application, and to the papers filed in opposition thereto, that good and sufficient cause has been shown for settlement, approval and allowance of the Final Account, and for the final award of Commissions and of Attorney's Fees and Expenses, as requested in the respective Applications therefor; and for denial of the opposition of Libi Herz to the Attorney's Fee Application;

NOW THEREFORE, it is hereby

ORDERED, that the Trustee's Final Report and Account is settled, approved and allowed. It is further

ORDERED, that the Trustee, having waived reimbursement of expenses, is awarded commissions in the final amount of \$6,084.02. And it is further

ORDERED, that the Law Offices of Moshie Solomon, P.C., Attorney for the Trustee, is awarded attorney's fees and reimbursement of expenses in the respective amounts of \$42,560 and \$250.18.

Dated: Brooklyn, New York  
May 4, 2018



  
Carla E. Craig  
United States Bankruptcy Judge

## Notice Recipients

District/Off: 0207-1  
Case: 1-11-42921-cec

User: tguzman  
Form ID: pdf000

Date Created: 5/18/2018  
Total: 32

**Recipients submitted to the BNC (Bankruptcy Noticing Center) without an address:**  
intp Libi Herz

TOTAL: 1

**Recipients of Notice of Electronic Filing:**

ust	United States Trustee	USTPRegion02.BR.ECF@usdoj.gov
tr	Richard E. O'Connell	macrhi@verizon.net
aty	Moshie Solomon	msolomon@moshiesolomonlaw.com
aty	Richard E. O'Connell	macrhi@verizon.net

TOTAL: 4

**Recipients submitted to the BNC (Bankruptcy Noticing Center):**

intp	Libi Herz	1148 E 10 St	Brooklyn, NY 11230	
intp	Esther Herz	1148 East 10th Street	Brooklyn, NY 11230	
8265969	Alan J. Sasson, Esq.	Law Office of Alan J. Sasson, PC	1669 East 12 Street	Brooklyn, NY
11229				
7150960	Amex	P.O. Box 981537	El Paso, TX 79998	
7150961	Bank Of America	Po Box 1598	Norfolk, VA 23501	
7150962	Cap One	Po Box 85520	Richmond, VA 23285	
7150963	Chase	N54 W 13600 Woodale Dr	Mennomonee, WI 53051	
7150964	Chase	Po Box 15298	Wilmington, DE 19850	
8498453	Chase Bank USA, N.A.	c/o Kevin C. Driscoll, Jr.,	Barnes & Thornburg LLP,	1 North Wacker Drive, Suite 4400, Chicago, IL 60606
7150965	Chase Mtg	10790 Rancho Berna	San Diego, CA 92127	
7164768	Diligentsia Capital Group LLC	c/o Recovery Management Systems Corp.	25 S.E. 2nd Avenue, Suite 1120 Miami, FL 33131-1605	
8612935	JPMorgan Chase Bank, National Association	c/o Parker, Ibrahim & Berg LLC	270 Davidson Avenue Somerset, NJ 08873	
8861130	JPMorgan Chase Bank, National Association	c/o Shapiro, DiCaro & Barak, LLC	175 Mile Crossing Boulevard Rochester, NY 14624	
7186821	Joseph Bogatz	c/o Bernard D'Orazio & Associates, P.C.	100 Lafayette Street-Suite 601 New York, New York 10013-4400	
7150966	Joseph Bogatz	c/o Bernard D'Orazio, PC	100 Lafayette St.,Ste.601 New York, NY 10013	
8361454	LVNV Funding LLC its successors and assigns	c/o Resurgent Capital Services	PO Box 10587 Greenville, SC 29603-0587	
8485729	Lexington Insurance Company	David L. Tillem	Wilson Elser 1133 Westchester Ave White Plains, NY 10604	
8494211	Lexington Insurance Company	c/o Frenkel Lambert Weiss	Weisman & Gordon, LLP One Whitehall Street, 20th Floor New York, NY 10004	
8602818	Lexington Insurance Company –	Frenkel Lambert Weiss Weisman & Gordon	One Whitehall Street, 20th Floor New York, New York 10004	
8598390	Libi Herz	1148 E 10 St	Brooklyn NY 11230	
9036169	Libi Herz as administratrix of Debtor's	Estate	c/o Michael L. Walker, Esq. 9052 Fort Hamilton Parkway Brooklyn, New York 11209	
7150967	NYC Water Board	P.O. Box 410	New York, NY 10008	
7201079	New York City Water Board	Department of Environmental Protection	59-17 Junction Blvd Bankruptcy Unit, 13th Floor Flushing NY 11373	
8361455	PYOD LLC its successors and assigns	c/o Resurgent Capital Services	PO Box 19008 Greenville, SC 29602	
8290584	Peter Robert Alfred Birchwood, Giordano, Halloran & Ciesla, P.C.	Estate Administrator for the 125 Half Mile Road, Suite 300	Estate of Ellen Ruth Silberman c/o Sheriff, City of New York 210 Joralemon St., Rm.909 Brooklyn, NY 11201 Red Bank, N.J. 07701	
7150968	U.S. Bank Trust, N.A., as Trustee for P.C.	LSF9 Master Participation Trust	c/o Rosicki, Rosicki & Associates, 51 East Bethpage Road Plainview, NY 11803	

TOTAL: 27

## Notice Recipients

District/Off: 0207-1  
Case: 1-11-42921-cec

User: cteutonic  
Form ID: pdf000

Date Created: 5/18/2018  
Total: 5

**Recipients of Notice of Electronic Filing:**

ust	United States Trustee	USTPRegion02.BR.ECF@usdoj.gov
tr	Richard E. O'Connell	macrhi@verizon.net
aty	Moshie Solomon	msolomon@moshiesolomonlaw.com
aty	Richard E. O'Connell	macrhi@verizon.net

TOTAL: 4

**Recipients submitted to the BNC (Bankruptcy Noticing Center):**

Libi & Esther Herz 1148 E 10 St Brooklyn NY 11230

TOTAL: 1